

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

DONALD ROBOHM and NATALIE ROBOHM

PLAINTIFFS

VS.

CAUSE NO: 1:08CV490-LTS-RHW

STATE FARM FIRE & CASUALTY COMPANY;
and STATE FARM JOHN DOES, One through Fifteen

DEFENDANTS

MOTION TO STRIKE PLAINTIFFS' DESIGNATION OF EXPERT WITNESSES

COMES NOW, the Defendant, State Farm Fire & Casualty Company (hereinafter "State Farm") and files this Motion to Strike Plaintiffs' Designation of Expert Witnesses [72], and would state unto the Court as follows:

I.

The Case Management Order [18] governing this matter was entered on March 18, 2009. Pursuant to that Order, Plaintiffs were to designate experts on or before July 1, 2009.¹ Plaintiffs did not file a timely designation or request leave of Court to file a late designation.

II.

Plaintiffs' Designation of Expert Witnesses [72] was filed on December 11, 2009, more than five months after the expiration of the deadline. Fed. R. Civ. P. 26(a)(2)(C) states, in pertinent part, "[a] party **must** make these disclosures at the times and in the sequence that the court orders." It is mandatory by its terms. Pursuant to the Scheduling Order entered in this case, the Federal Rules of Civil Procedure, and the Uniform Local Rules applicable in this Court, Plaintiffs' Designation is untimely and should be struck.

¹Pursuant to the Court's Text Only Order of December 7, 2009, the discovery deadline in this matter is January 4, 2010.

III.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests that this Honorable Court strike Plaintiffs' Designation of Expert Witnesses as untimely, and exclude all opinions that said experts may offer in this case. In light of the straightforward nature of this request and the authorities cited herein, Defendant requests the Court waive the local rule requirement for submission of a memorandum of authorities in support of this Motion. Defendant requests any further relief the Court may find warranted in the premises.

Respectfully Submitted,

STATE FARM FIRE AND CASUALTY COMPANY

HICKMAN, GOZA & SPRAGINS, PLLC.

Attorneys at Law

Post Office Drawer 668

Oxford, Ms. 38655-0668

(662)234-4000

By: /s/ H. Scot Spragins

H. SCOT SPRAGINS, MSB#7748

CERTIFICATE OF SERVICE

I, **H. SCOT SPRAGINS**, one of the attorneys for the Defendant, **STATE FARM FIRE & CASUALTY COMPANY**, do hereby certify that I have on this date electronically filed the foregoing document with the Clerk of Court using the ECF system which sent notification of such filing to all counsel of record.

DATED, December 16, 2009

/s/ H. Scot Spragins

H. SCOT SPRAGINS

H. SCOT SPRAGINS, MSB # 7748
HICKMAN, GOZA & SPRAGINS, PLLC
Attorneys at Law
Post Office Drawer 668
Oxford, MS 38655-0668
(662) 234-4000